

Bereskin & Parr

INTELLECTUAL PROPERTY LAW

Appl. No. 10/582,982

Response dated December 18, 2008

Reply to Office Communication of November 19, 2008

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| Appl. No | : | 10/582,982 | Confirmation no. 1560 |
| Applicants | : | Robert C. Shipman and David K. H. Lee | |
| Filed | : | June 15, 2006 | |
| Title | : | Materials and Methods for Analysis of ATP-Binding Cassette Transporter Gene Expression | |
| TC./A.U. | : | 1634 | |
| Examiner | : | POHNERT, Steven C. | |
| Docket No. | : | 13516-4 | |
| Customer No. | : | 001059 | |

RESPONSE TO OFFICE COMMUNICATION

FILED ELECTRONICALLY

Honorable Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This paper is in response to the Office Communication of November 19, 2008.
This Response is timely filed.

Recordation of Substance of Telephone Interview with Examiner Pohnert

In accordance with 37 CFR §1.113(b), the Applicants submit the following recordation of the substance of a telephone interview with the Examiner that occurred on November 10, 2008. The following information is to supplement the information provided on form PTOL-413 dated November 19, 2008, prepared by the Examiner.

Present at the interview were Examiner Pohnert and Patricia Folkins (Agent for the Applicants). There were no exhibits shown or demonstrations conducted during the interview. The merits of all of the currently rejected claims were discussed. Specific prior art that was discussed included Denefle et al. (WO02/46458), Dean et al, Monahan Manulife Corporate Park, 6733 Mississauga Road, Suite 600, Mississauga, Ontario L5N 6J5 Tel: 905.812.3600 Fax: 905.814.0031 www.bereskinparr.com

TORONTO MISSISSAUGA WATERLOO MONTRÉAL

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et al, Schmitz (WO00/18912), GenBank AC069137.6, Boyd et al, GenBank U63970.1, Wan et al, Kruh et al, GenBank Z31010.1 and Ota et al.

The Agent for the Applicants had contact the Examiner to discuss the response that they had filed for the Applicants on October 28, 2008 in hopes of moving the case forward to allowance. The Examiner suggested that a declaration providing comparative data that highlights the advantages and unexpected results of the present invention would help to support the non-obviousness of the claims over the art of record (noted above). The Examiner suggested that data showing that not just any probe for the claimed genes would work in the same way as the sequences being claimed in the present application.

The Applicants appreciate the Examiner's assistance with this matter and are considering filing a declaration containing the requested data within two months of the interview date.

Respectfully submitted,

BERESKIN & PARR



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